

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DEBBIE FISHER : CIVIL ACTION
: :
v. : NO. 02-3460
: :
PEDRO ORTIZ, et al. :

MEMORANDUM

Bayson, J.

December 16, 2002

This case involves a motor vehicle accident which took place in York County, Pennsylvania on February 4, 2000. Because litigation between the same parties, arising out of the same accident, is now pending in the Middle District of Pennsylvania, this Court asked the parties to brief the application of the “First Filed” Doctrine, and as a result this action will be stayed pending completion of litigation in the Middle District of Pennsylvania, Civil Action No. 01-1686.

Timothy Connors (who is not a Plaintiff in this action) initiated the first action arising out of the accident by filing a Praecept for Writ of Summons against Shan-Lor and Pedro Ortiz (“Ortiz”) on July 25, 2001 in the York County Court of Common Pleas. Connors subsequently filed a Praecept for Writ of Summons against Paul Lenardson (“Lenardson”) in the same case on or about September 20, 2001. Defendants Ortiz and Shan-Lor filed a Petition for Removal with the U.S. District Court for the Middle District of Pennsylvania on August 31, 2001, which was docketed as Civil Action No. 01-1686.

Debbie Fisher (the Plaintiff in this case) initiated an action arising from the same facts with a Praecept for Writ of Summons against Shan-Lor and Ortiz on January 8, 2002 in the York County Court of Common Pleas. A Praecept for Writ of Summons to join additional Defendant

Lenardson was filed in the same matter on April 29, 2002. Shan-Lor and Ortiz filed a Petition for Removal to the Middle District on May 1, 2002, which was docketed as Civil Action No. 02-737. Judge Sylvia Rambo of the Middle District consolidated the two cases which had been removed to that Court under Case No. 01-1686, and litigation continues.

Plaintiff Debbie Fisher initiated the third and present case arising from this same accident by filing a Praecept for Writ of Summons in the Philadelphia County Court of Common Pleas on January 9, 2002, which was removed to this Court under the above caption by Defendants Ortiz and Shan-Lor on May 30, 2002. The only substantive difference between the consolidated Middle District case and the present case is that Timothy Connors, one of the Plaintiffs in the Middle District case, is not a party in this case.

Under the principles set forth in *EEOC v. University of Pennsylvania*, 850 F.2d 969 (3d Cir. 1988), this case will be stayed pending resolution of the case in the Middle District. There is no need or reason for both cases to proceed simultaneously. In fact, it will be more efficient for the case to proceed in the Middle District because there are two Plaintiffs in that consolidated action who allege injuries arising out of the same accident, and will presumably dispose of the entire matter. In this Court, Ms. Fisher is the only Plaintiff, and thus, the Middle District case must nonetheless proceed to adjudicate the claims of Mr. Connors. Since Ms. Fisher first filed in York County, before she filed in Philadelphia County, her claim must first proceed in the Middle District along with Mr. Connors' claims.

In her brief, Plaintiff has not presented any valid reasons why any exception to the First Filed Doctrine is applicable in this case.

An appropriate Order follows.

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ORDER

AND NOW, this _____ day of December, 2002, for the reasons stated in the foregoing Memorandum, this case shall be stayed pending resolution of Civil Action No. 01-1686 in the Middle District of Pennsylvania. This case shall be placed in the suspense file and shall be marked closed for statistical purposes.

BY THE COURT:

Michael M. Bayson, U.S.D.J.